

**Office of the Secretary****20 CFR Chs. I, IV, V, VI, VII, and IX****29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV****30 CFR Ch. I****41 CFR Ch. 60****48 CFR Ch. 29****Semiannual Agenda of Regulations****AGENCY:** Office of the Secretary, Labor**ACTION:** Semiannual Regulatory Agenda

**SUMMARY:** The Internet has become the means for disseminating the entirety of the Department of Labor's semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the **Federal Register**. This **Federal Register** Notice contains the regulatory flexibility agenda.

**FOR FURTHER INFORMATION CONTACT:** Laura M. Dawkins, Director, Office of Regulatory and Programmatic Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW, Room S-2312, Washington, DC 20210; (202) 693-5959.

**NOTE:** Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

**SUPPLEMENTARY INFORMATION:** Executive Order 12866 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department's semiannual agenda is available online at [www.reginfo.gov](http://www.reginfo.gov).

The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the **Federal Register** a regulatory flexibility agenda. The Department's Regulatory Flexibility Agenda, published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a

subset of the Department's semiannual regulatory agenda. The Department's Regulatory Flexibility Agenda does not include section 610 items at this time.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and are invited to participate in and comment on the review or development of the regulations listed on the Department's agenda.

**Martin J. Walsh,**  
*Secretary of Labor.*

Wage and Hour Division—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
328	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees <b>(Reg Plan Seq No. 114)</b>	1235-AA39

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
329	Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States	1205-AB93

Employee Benefits Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
330	Requirements Related to Surprise Billing, Part 1 <b>(Reg Plan Seq No. 122)</b>	1210-AB99

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal**

## Register.

### Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
331	Process Safety Management and Prevention of Major Chemical Accidents	1218–AC82
332	Emergency Response	1218–AC91
333	Prevention of Workplace Violence in Health Care and Social Assistance ( <b>Reg Plan Seq No. 126</b> )	1218–AD08

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

### Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
334	Infectious Diseases ( <b>Reg Plan Seq No. 128</b> )	1218–AC46
335	Communication Tower Safety	1218–AC90
336	Tree Care Standard	1218–AD04

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Department of Labor (DOL)	Proposed Rule Stage
Wage and Hour Division (WHD)	

## 328. DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, OUTSIDE SALES AND COMPUTER EMPLOYEES

**Regulatory Plan:** This entry is Seq. No. 114 in part II of this issue of the **Federal Register**.

**RIN:** 1235–AA39

<b>Department of Labor (DOL)</b>	<b>Proposed Rule Stage</b>
<b>Employment and Training Administration (ETA)</b>	

### **329. TEMPORARY EMPLOYMENT OF H-2B FOREIGN WORKERS IN CERTAIN ITINERANT OCCUPATIONS IN THE UNITED STATES**

**Legal Authority:** 8 U.S.C. 1184; 8 U.S.C. 1103

**Abstract:** The United States Department of Labor's (DOL) Employment and Training Administration and Wage and Hour Division, and the United States Department of Homeland Security (DHS), U.S.

Citizenship and Immigration Services, are jointly proposing to amend H-2B non-immigrant visa program regulations at 20 CFR part 655, subpart A, and 8 CFR 214. The Notice of Proposed Rulemaking (NPRM) would establish standards and procedures for employers seeking to hire foreign temporary nonagricultural workers for certain itinerant job opportunities, including entertainers and carnivals and utility vegetation management.

#### **Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
NPRM	06/00/22	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Brian Pasternak, Administrator, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Office of Foreign Labor Certification; Room N-5311, FP Building, Washington, DC 20210

Phone: 202 693-8200

Email: [pasternak.brian@dol.gov](mailto:pasternak.brian@dol.gov)

**RIN:** 1205-AB93

<b>Department of Labor (DOL)</b>	<b>Final Rule Stage</b>
<b>Employee Benefits Security Administration (EBSA)</b>	

### **330. REQUIREMENTS RELATED TO SURPRISE BILLING, PART 1**

**Regulatory Plan:** This entry is Seq. No. 122 in part II of this issue of the **Federal Register**.

**RIN:** 1210-AB99

<b>Department of Labor (DOL)</b>	<b>Prerule Stage</b>
<b>Occupational Safety and Health Administration (OSHA)</b>	

### **331. PROCESS SAFETY MANAGEMENT AND PREVENTION OF MAJOR CHEMICAL ACCIDENTS**

**Legal Authority:** 29 U.S.C. 655; 29 U.S.C. 657

**Abstract:** The Occupational Safety and Health Administration (OSHA) issued a Request for Information (RFI) on December 9, 2013 (78 FR 73756). The RFI identified issues related to modernization of the Process Safety Management standard and related standards necessary to meet the goal of preventing major chemical accidents. OSHA completed SBREFA in August 2016.

**Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
Request for Information (RFI)	12/09/13	78 FR 73756
RFI Comment Period Extended	03/07/14	79 FR 13006
RFI Comment Period Extended End	03/31/14	
Initiate SBREFA	06/08/15	
SBREFA Report Completed	08/01/16	
Stakeholder Meeting	01/00/22	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210

Phone: 202 693-1950

Email: levinson.andrew@dol.gov

**RIN:** 1218-AC82

### **332. EMERGENCY RESPONSE**

**Legal Authority:** 29 U.S.C. 655(b); 29 U.S.C. 657; 5 U.S.C. 609

**Abstract:** OSHA currently regulates aspects of emergency response and preparedness; some of these standards were promulgated decades ago, and none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns currently facing emergency responders, and other workers providing skilled support, nor do they reflect major changes in performance specifications for protective clothing and equipment. The agency acknowledges that current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into industry consensus standards. OSHA is considering updating these standards with information gathered through an RFI and public meetings.

**Timetable:**

Action	Date	FR Cite
Stakeholder Meetings	07/30/14	
Convene NACOSH Workgroup	09/09/15	
NACOSH Review of Workgroup Report	12/14/16	
Initiate SBREFA	08/02/21	
Finalize SBREFA	12/00/21	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210

Phone: 202 693-1950

Email: levinson.andrew@dol.gov

**RIN:** 1218-AC91

---

### **333. PREVENTION OF WORKPLACE VIOLENCE IN HEALTH CARE AND SOCIAL ASSISTANCE**

**Regulatory Plan:** This entry is Seq. No. 126 in part II of this issue of the **Federal Register**.

**RIN:** 1218-AD08

<b>Department of Labor (DOL)</b>	<b>Proposed Rule Stage</b>
<b>Occupational Safety and Health Administration (OSHA)</b>	

### 334. INFECTIOUS DISEASES

**Regulatory Plan:** This entry is Seq. No. 128 in part II of this issue of the **Federal Register**.

**RIN:** 1218–AC46

### 335. COMMUNICATION TOWER SAFETY

**Legal Authority:** 29 U.S.C. 655(b); 5 U.S.C. 609

**Abstract:** While the number of employees engaged in the communication tower industry remains small, the fatality rate is very high. Over the past 20 years, this industry has experienced an average fatality rate that greatly exceeds that of the construction industry. Due to recent FCC spectrum auctions and innovations in cellular technology, there will be a very high level of construction activity taking place on communication towers over the next few years. A similar increase in the number of construction projects needed to support cellular phone coverage triggered a spike in fatality and injury rates years ago. Based on information collected from an April 2016 Request for Information (RFI), OSHA concluded that current OSHA requirements such as those for fall protection and personnel hoisting, may not adequately cover all hazards of communication tower construction and maintenance activities. OSHA will use information collected from a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to identify effective work practices and advances in engineering technology that would best address industry safety and health concerns. The Panel carefully considered the issue of the expansion of the rule beyond just communication towers. OSHA will continue to consider also covering structures that have telecommunications equipment on or attached to them (e.g., buildings, rooftops, water towers, billboards).

#### **Timetable:**

<b>Action</b>	<b>Date</b>	<b>FR Cite</b>
Request for Information (RFI)	04/15/15	80 FR 20185
RFI Comment Period End	06/15/15	
Initiate SBREFA	01/04/17	
Initiate SBREFA	05/31/18	

Complete SBREFA	10/11/18	
NPRM	10/00/22	

**Regulatory Flexibility Analysis Required: Yes**

**Agency Contact:** Scott Ketcham, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, Room N–3468, FP Building, Washington, DC 20210

Phone: 202 693–2020

Fax: 202 693–1689

Email: ketcham.scott@dol.gov

**RIN:** 1218–AC90

### 336. TREE CARE STANDARD

**Legal Authority:** Not Yet Determined

**Abstract:** There is no OSHA standard for tree care operations; the agency currently applies a patchwork of standards to address the serious hazards in this industry. The tree care industry previously petitioned the agency for rulemaking and OSHA issued an ANPRM (September 2008). OSHA completed a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel in May 2020, collecting information from affected small entities on a potential standard, including the scope of the standard, effective work practices, and arboricultural specific uses of equipment to guide OSHA in developing a rule that would best address industry safety and health concerns. Tree care continues to be a high-hazard industry.

**Timetable:**

Action	Date	FR Cite
Stakeholder Meeting	07/13/16	
Initiate SBREFA	01/10/20	
Complete SBREFA	05/22/20	
NPRM	06/00/22	

**Regulatory Flexibility Analysis Required: Yes**

**Agency Contact:** Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N–3718, Washington, DC 20210

Phone: 202 693–1950



Email: levinson.andrew@dol.gov

**RIN:** 1218–AD04

**BILLING CODE 4510–HL–P**

[FR Doc. 2021-28220 Filed: 1/28/2022 8:45 am; Publication Date: 1/31/2022]